(3)

*IN THE HON'BLE HIGH COURT OF MADHYA PRADESH, AT JABALPUR M.P.*

*WRIT PETITION No.* 5624 / 1999

*IN THE MATTER OF :*

*PETITIONERS :*

*M/s. Golechha Chemicals (Wax Division), 46, Heavy Industrial Area, Hathkhoj, Bhilai, Tahsil & District Durg, M.P., - A proprietory concern, through : SANTOSH GOLECHHA S/o. Shri KC GOLECHHA resident of Malviya Nagar, Durg - Bhilai, Tahsil & District, Durg, M.P.*

*Versus*

*RESPONDENTS :*

1. *The State of Madhya Pradesh, Through: The Collector, Durg (M.P.).*
2. *The Inspector General of Registration, And Superintendent of Stamps, Government of Madhya Pradesh, Gwalior (M.P.)*
3. *The District Registrar and Collector, of Stamps, Durg (M.P.)*
4. *Central Bank of India, Civic Centre, Bhilai, Tahsil & District Durg (M.P.)*

*WRIT PETITION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT OR WRITS IN THE NATURE OF MANDAMUS, CERTIORARI, AND PROHIBITION AND FOR OTHER APPROPRIATE ORDERS AND DIRECTIONS.*

XI-HC-22

(43)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

# आदेश पत्रक

मामला क्रमांक .....W.P.No.5624/99..... सन् 200

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

DIVISION BENCH: -

HON'BLE SHRI FAKHRUDDIN, Ag.C.J.
& HON'BLE SHRI SUNIL KUMAR SINHA, J.

11/03/2005: -

Smt. Meera Jaiswal, counsel for the petitioner.

Shri Prashant Mishra, Addl. Advocate General, with Shri N.K. Agrawal, Dy. A.G., for the State/respondents.

Heard.

This case has been received on transfer from the High Court of Madhya Pradesh.

Learned counsel appearing for the State very fairly stated that this matter is squarely covered by order dated 07/02/2003 passed by the Division Bench of the High Court of Madhya Pradesh in bunch of cases bearing Writ Petition No.4854 of 1999 and the connected matters. This matter has also been reported in **2003 (I) MPJR - SN 62 {W.P. No. 4854 of 1999 – M/s. Vikas Concrete Industries Vs. State of M.P.}**

The points raised in this petition are similar to that of the points raised in aforesaid writ petitions and the same have been decided by Division Bench of the High Court of Madhya Pradesh. It is submitted that while deciding the aforesaid writ petitions, the Division Bench has observed as under:

(a) "There is a difference between the two concepts, namely, stamp duty and rate of duty;

(पीछे देखिये)

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## आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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(b) The State Legislature has the competence to provide the rates of stamp duty as per Entry 63 read with Entry 44 of List-III of the Seventh Schedule of the Constitution;

(c) There is no discrimination because a document relating to immovable property is liable to extra stamp duty under Section 75 of the 1993 Act because it is situated within the block whereas a similar property is not liable to excess duty solely on the ground it is situated within the Municipal area;

(d) Section 75 of the 1993 Act is intra vires and the proviso to Section 75 is to be given retrospective effect from the date when Section 75 came into force i.e. 25/01/1994; and

(e) The retroactivity would have limited effect so that the persons who have not paid the stamp duty would be liable to pay under the proviso but the persons who have paid under the main provision would not be entitled to refund."

Learned counsel appearing for the petitioner does not dispute this legal position.

In view of the submissions made by the counsel appearing for the parties and, particularly the fact that this matter is squarely covered by

(पीछे देखिये)

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**आदेश पत्रक**

**मामला क्रमांक** ....W.P.No.5624/99.... **सन्** **200**

..... **विरुद्ध** .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
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the decision of the Division Bench of High Court of Madhya Pradesh, this petition stands finally disposed of with the observations quoted above.

Learned counsel for the petitioners prays for refund of security deposit.

The security amount, if any, deposited, be refunded. There shall be no order as to costs.

**Sd/-**
**Acting Chief Justice**

**Sd/-**
**Sunil Kumar Sinha**
**Judge**

(पीछे देखिये)